

Project: Jalama Beach Concession
APN: 083-510-001
Folio No.: 003534
Agent: DG

CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT (hereinafter "Agreement") is made by and between the

COUNTY OF SANTA BARBARA, a political subdivision of the State of California, hereinafter referred to as "COUNTY,"

and

JALAMA BEACH STORE, INC., a California Corporation, hereinafter referred to as "CONCESSIONER,"

with reference to the following:

WHEREAS, COUNTY is the owner of the property known as Jalama Beach County Park, near Lompoc, California, consisting of a portion of County Assessor Parcel Number 083-510-001, in the unincorporated area of Santa Barbara County (hereinafter "Property"), identified as the diagonally-slashed area of Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, improvements on the Property include a general store and snack bar known as the Jalama Beach Store, located within the leased area, identified as the cross-hatched area of Exhibit "B", attached hereto and incorporated herein by reference (hereinafter "Premises"), within COUNTY'S Jalama Beach County Park; and

WHEREAS, CONCESSIONER, who has been operating the Premises since 1978 under previous Concession Agreements with COUNTY, with the right to occupy and use the Premises for the sale of food, beverages, and supplies, as well as the rental of vacation trailers and beach equipment at Jalama Beach County Park, has bid for and been awarded the right to continue to operate, manage, maintain, and improve the Premises; and

WHEREAS, COUNTY wishes to grant CONCESSIONER the right to continue to operate, manage, maintain, and improve the Premises, subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the promises, covenants, and conditions contained herein, the parties agree as follows:

1. **ADMINISTRATION AND ENFORCEMENT:** The provisions of this Agreement shall be administered and enforced for the COUNTY through the Director of COUNTY'S Parks Department (hereinafter "Director"). The Director shall have authority to issue or deny any approvals required by this Agreement, and to amend this Agreement on behalf of COUNTY so long as such amendments do not materially alter the purpose of this Agreement, as such is described in Section 3, **PURPOSE AND USE,** hereof. CONCESSIONER understands and agrees that all approvals required by COUNTY shall be at the sole discretion of the Director.

2. **RIGHTS GRANTED:** COUNTY hereby leases to CONCESSIONER and CONCESSIONER hereby takes from COUNTY the Premises, as shown on Exhibit B hereof. CONCESSIONER shall have the obligation and the exclusive right to engage in all of the following activities:

- a) The sale of food and beverages, including beer and wine.
- b) The sale of kitchen, camping, housekeeping, and other related supplies and conveniences.
- c) The rental of swimming and beach equipment and supplies.
- d) The operation of a restaurant and delicatessen.
- e) The rental of vacation trailers, subject to the following:
 - i) Trailers will be stored off of the Property and will only be brought onto the Property for CONCESSIONER'S customers who are securing campsites and paying all applicable Park camping fees at the Jalama Beach Main Office; and
 - ii) CONCESSIONER shall not secure any campsites for its customers or for any guests or patrons of the Park; and
 - iii) CONCESSIONER and CONCESSIONER'S customers shall comply with all local, County, State and Federal laws, rules and regulations pursuant to Section 26, **COMPLIANCE WITH THE LAW,** and with Santa Barbara County Code Chapter 26; and
 - iv) CONCESSIONER shall be solely responsible for reimbursing customers for vacation trailer reservations or deposits if campsites are not available on the same date as the vacation trailer reservation.
- f) The right to locate on the Premises one mobile home for the exclusive use of CONCESSIONER and his family, and one mobile bunkhouse for the exclusive use of housing employees of CONCESSIONER.

All food and beverages sold on the Premises shall comply in all respects with all applicable County, State and Federal food and beverage laws, ordinances and regulations. CONCESSIONER agrees to make all facilities, as well as all products and services provided at the Premises available to the public without discrimination and at reasonable rates.

CONCESSIONER has examined the Premises and determined that the Premises are suitable for the needs and operations of CONCESSIONER. CONCESSIONER hereby accepts the Premises in its current condition and acknowledges that COUNTY makes no warranties or representations regarding the condition of the Premises or any of the improvements or fixtures attached thereto.

Use of the premises and business enterprise that is the subject of this Concession Agreement shall not entitle the CONCESSIONER to any independent right to any tradename or servicemark related to the operation of the concession except in accordance with this Concession Agreement or a successor agreement. COUNTY reserves the rights to use the name "Jalama Beach" for its licensed or franchised concession activity, now and in the future. No trade name right to the use of the term "Jalama Beach" shall inure to the CONCESSIONER separate from the business enterprise herein agreed to.

In the event CONCESSIONER fails to provide those services described in subsection 2.a, b, or c of this Section, COUNTY shall have the right to provide such services, or contract with a third party to provide such services for the benefit of the Park guests and patrons. In addition, COUNTY reserves the right to host special events at the Park, and to provide some or all of the services described herein to its guests and patrons, however, COUNTY shall not offer those services to the general public or otherwise compete with CONCESSIONER for business at the Park, so long as CONCESSIONER is offering the services described in this Section.

3. **PURPOSE AND USE:** CONCESSIONER shall have the right to use the Premises to operate, manage, maintain, and improve the Premises. CONCESSIONER shall not use the Premises for any other purpose without the express written consent of COUNTY. CONCESSIONER shall not install or construct any improvements on the Premises until such has been approved by COUNTY in accordance with Section 9, **IMPROVEMENTS/ALTERATIONS**, hereof.

CONCESSIONER shall use its best efforts to maximize income at the Premises and shall comply, whenever possible, with the following proposed hours of operation:

- June through September: minimum 8:00 a.m. to 7:00 p.m., seven days per week
- October through May: minimum 10:00 a.m. to 5:00 p.m., seven days per week
- Thanksgiving and Christmas: open mid-day for at least two hours

The proposed hours of operation may be amended from time to time by CONCESSIONER and the Director of Parks, and are expressly subject to mandatory closure by order of Vandenberg Air Force Base.

VANDENBERG EVACUATION AGREEMENT: It is understood that COUNTY has a separate agreement with the United States Air Force to evacuate the Property upon notice from Vandenberg Air Force base to COUNTY. In the event of such notice, CONCESSIONER shall evacuate the Premises and shall cooperate with COUNTY and United States Air Force personnel in ensuring the prompt and complete evacuation of the Property and Premises. CONCESSIONER hereby agrees that CONCESSIONER shall have no claim against COUNTY as a result of such evacuations, other than the adjustment in rent pursuant to Section 7, **RENT/CONCESSION FEES/CAPITAL IMPROVEMENTS**.

4. **TERM:** The term of this Agreement shall be for a period of TEN (10) years, commencing January 1, 2008, (hereinafter "Commencement Date") and terminating December 31, 2017, unless otherwise extended or terminated pursuant to the provisions hereof.

5. **EXTENTION OF AGREEMENT:** In the event this Agreement has not otherwise been terminated and CONCESSIONER is in good standing at the end of the above-referenced term,

such term may be extended for TWO (2) additional terms of FIVE (5) years each, upon mutual agreement of CONCESSIONER and COUNTY. CONCESSIONER shall request all extensions in writing at least six (6) months prior to the termination of the then-current term. Concurrently with the request to extend the term, CONCESSIONER shall submit a revised Business Plan and Capital Improvements Plan for the requested extension period. The Director, or designee, may approve the extension on behalf of COUNTY.

6. **ACCESS TO THE PREMISES:** CONCESSIONER shall only access the Premises using the existing road and parking lot. COUNTY shall not be responsible for maintaining access to the Premises and shall not be liable to LESSEE for lack of such access, however, in the event that the Premises becomes inaccessible as a result of natural causes, COUNTY shall, to the extent reasonably necessary, cooperate with CONCESSIONER in restoring access in a timely fashion.

7. **RENT/CONCESSION FEES/CAPITAL IMPROVEMENTS:** In consideration of the rights granted herein, CONCESSIONER shall pay to COUNTY a monthly fee (hereinafter "Rent") based on a percentage of CONCESSIONER'S monthly income from the rights granted herein, or a minimum monthly rent, whichever is greater, and shall provide the capital improvements to the Premises described in Exhibit "C" hereof. Concurrently with the payment of Rent, CONCESSIONER shall submit to COUNTY, a written report of all gross income derived from CONCESSIONER'S operations at the Premises. Rent shall begin to accrue on the Commencement Date, and shall be due and payable for each month of the term. All rent due to COUNTY shall be paid on a monthly basis, on or before the tenth (10th) day of the following month, and shall be delivered to COUNTY at the address stated herein in Section 28, NOTICES.

PERCENTAGE RENT: CONCESSIONER shall pay to COUNTY a percentage of the gross income on all sales, income or receipts arising from CONCESSIONER'S operations at the Premises. Gross income shall not include any amount collected for State or Federal taxes. CONCESSIONER shall pay to COUNTY EIGHT percent (8%) of the gross income in any calendar month received from all of CONCESSIONER'S operations on the Premises. CONCESSIONER shall provide a financial report that includes gross receipts and a calculation of the percentage rent.

MINIMUM MONTHLY RENT: Upon commencement of this Agreement, the minimum monthly rent shall be THREE THOUSAND DOLLARS (\$3,000.00).

CAPITAL IMPROVEMENTS: As partial consideration for the rights granted herein, CONCESSIONER shall complete the proposed capital improvements described in Exhibit "C" hereof, and shall complete those improvements within SIX (6) months of final execution of this Agreement. It is understood that completion of the capital improvements described in Exhibit C by CONCESSIONER represents a substantial portion of the consideration given by CONCESSIONER to COUNTY for the rights granted herein. Failure to complete said improvements in a timely manner shall be a material breach of this Agreement, and shall entitle COUNTY to terminate this Agreement on thirty (30) days written notice to CONCESSIONER.

All such capital improvements shall be subject to the provisions of Section 9, **IMPROVEMENTS/ALTERATIONS**, hereof.

PARK CLOSURES: In the event that the Park is completely closed due to the Vandenberg Evacuation Agreement described in Section 3 hereof, or for any other reason beyond the control of CONCESSIONER, the monthly rent for the month in which the closure

occurs shall be reduced by 1/30, regardless of the number of days in that month, for any evacuation or full day of closure. In the event the Park is partially closed such that more than one half of the campsites are unavailable for at least one half day, or such that the Park is totally closed for more than six hours, the monthly rent for the month in which the closure occurs shall be reduced by 1/60.

8. **ACCOUNTING:** CONCESSIONER shall keep and maintain good and sufficient books and records of any and all business conducted under the terms of this Agreement. Such books and records shall be available for inspection by officers, employees and agents of the COUNTY at all reasonable times.

CONCESSIONER shall scrupulously endeavor to keep all receipts and accounts for the business conducted under the terms of this Agreement separate and apart from any other business enterprise. All business income deriving from the operation of this concession shall be attributed to the gross income under this Agreement, including, but not limited to catering, food deliveries, services rendered on the Premises and all products sold or delivered to visitors at the COUNTY facilities. CONCESSIONER shall not accept payment or revenues for services or products related to the Premises at any other location. Accounts for revenues from business enterprises owned by CONCESSIONER at other locations than the Premises described herein shall be segregated from those of the Premises to allow accurate audit of income source, including provision of separate banking accounts.

PERCENTAGE RENT: For the purpose of ascertaining the amount payable as percentage rent, CONCESSIONER agrees to prepare accurate records showing inventories and receipts of merchandise at the Premises, and to show daily receipts from all sales and other transactions conducted from the Premises by CONCESSIONER or any third party conducting business from the Premises. CONCESSIONER shall record at the time of the sale and in the presence of the customer, all receipts from sales or other transactions for cash in a cash register that continuously records a cumulative total.

In addition to the monthly report required in Section 7 hereof, CONCESSIONER shall submit, within ninety (90) days of the end of the fiscal year for each and every year of the term, including any extension thereof, an annual financial report that includes gross receipts and an accounting of all transactions, prepared by CONCESSIONER'S regularly employed accountant or bookkeeper, and certified to be correct by an officer of CONCESSIONER.

COUNTY shall have the right, within twelve months after receipt of the annual financial report, to inspect all of the books of account and supporting data relating to gross receipts. CONCESSIONER, on fourteen days written notice, shall make all such matters available to COUNTY during regular business hours. In the event that any such inspection discloses that CONCESSIONER has not paid COUNTY the proper amount of Percentage Rent, CONCESSIONER shall promptly pay the additional rent due, together with interest computed from the date such Percentage Rent became due at the rate of TEN PERCENT (10%) per annum, or may conduct an independent audit of CONCESSIONER'S entire business affairs and records relating to CONCESSIONER'S operations at the Premises, certified by a certified public accountant or licensed public accountant. In the event of such an audit, should the gross receipts shown by CONCESSIONER for the period covered by such audit be found to be understated by more than FIVE PERCENT (5%), CONCESSIONER shall pay to COUNTY any costs incurred by COUNTY as a result of such audit and/or inspection.

9. **IMPROVEMENTS/ALTERATIONS:** CONCESSIONER agrees that any improvements, alterations, equipment or utilities constructed or placed on the Premises, either permanent or temporary in nature, or any alterations or additions made to the Property shall be subject to prior written approval by COUNTY. In addition, if COUNTY approves any new proposed improvement plans, such approval shall be deemed conditioned upon CONCESSIONER acquiring permits or clearances from the appropriate governmental agencies, and the submission of such to COUNTY prior to commencement of work. CONCESSIONER shall comply with all conditions of said permits or clearances in a prompt and expeditious manner. Any and all permits or clearances required shall be granted only on the merits of the application thereof, and nothing in this Agreement shall be construed to require COUNTY, or any other governmental agency, to grant such permits or clearances.

CONCESSIONER shall pay when due all claims for labor or materials furnished or alleged to have been furnished to CONCESSIONER for use on the Property, which claims are or may be secured by any liens on the Premises or any interest therein. CONCESSIONER shall give COUNTY no less than ten days written notice prior to the commencement of any work on the Premises, and COUNTY shall have the right to post Notices of Non-responsibility in or on the Property as provided by law. If CONCESSIONER contests in good faith the validity of any such lien, claim or demand, CONCESSIONER shall, at its sole cost and expense, defend itself and COUNTY against the same, and shall pay and satisfy any such adverse judgment that may be rendered therefrom. Upon request by COUNTY, CONCESSIONER shall furnish COUNTY with a copy of a surety bond satisfactory to COUNTY in an amount equal to such contested lien claim or demand indemnifying COUNTY from liability for same, and holding the Property free and clear of the effect of such lien or claim.

OWNERSHIP OF IMPROVEMENTS: COUNTY shall retain ownership of all improvements on the Premises, except for the following items located on the Premises that are wholly-owned by CONCESSIONER (as identified on page 2 of Exhibit B):

- One Mobile Home
- One Mobile Bunkhouse
- One Walk-in Freezer
- One Walk-in Refrigerator
- One Storeroom

APPROVED IMPROVEMENTS: The improvements to the Premises described in Exhibit C are hereby approved by COUNTY. The described improvements shall be completed within SIX (6) MONTHS of execution of this Agreement, and, upon completion, shall become subject to this Agreement. Notwithstanding, upon termination of this Agreement, the char-broiler and reach-in freezer shall be considered wholly-owned by CONCESSIONER and shall be added to the list on page 2 of Exhibit B hereof.

10. **ASSIGNMENT/SUBLEASE:** CONCESSIONER shall not voluntarily assign, sublease or otherwise encumber any rights granted hereunder, or allow any other person or entity to occupy or use all or part of the Premises without the written consent of COUNTY. Any attempt to assign, sublease, hypothecate or otherwise encumber the rights granted hereunder without such consent shall be void and without legal effect, and render this Agreement terminable at the option of COUNTY.

11. **NONINTERFERENCE**: CONCESSIONER agrees to not use, nor permit those under its control, including, but not limited to, its employees, tenants, licensees, invitees, agents and/or contractors, to use any portion of the Property in any way which interferes with public use. Such interference shall be deemed a material breach, and CONCESSIONER shall terminate said interference immediately upon notice from COUNTY. In the event CONCESSIONER fails to stop such interference promptly, this Agreement shall terminate at the option of COUNTY.

12. **FACILITIES**: CONCESSIONER shall pay all costs of construction and installation of any and all improvements to the Premises incidental to the activities contemplated herein; including but not limited to landscaping and maintenance.

13. **SIGNS**: CONCESSIONER shall not erect any signs on the Property without express written consent of COUNTY.

14. **UTILITY CHARGES**: Subject to COUNTY approval, CONCESSIONER shall have the right to install any and all additional utility installations required by the purposes contemplated herein. CONCESSIONER shall be responsible for maintaining any and all utilities to the Premises, and shall pay when due all charges for utilities now on the Premises, or constructed or placed on the Premises, for use by CONCESSIONER. Whenever possible, CONCESSIONER shall separately meter all CONCESSIONER'S utilities such that all utility charges for CONCESSIONER'S operations are independent of utility charges for the Property.

15. **TRASH DISPOSAL**: CONCESSIONER shall be responsible for the removal of all refuse, waste and rubbish from the Property resulting from CONCESSIONER'S operations and depositing such in proper receptacle which may be provided by COUNTY.

16. **WASTE**: No waste shall be committed on the Property, nor shall any nuisance or other acts be committed that disturb the enjoyment of the general public, the Property, its visitors, COUNTY, or any adjacent property owners.

17. **MAINTENANCE**: CONCESSIONER agrees to keep the Premises, including all buildings, improvements and landscaping, in good maintenance and repair, at CONCESSIONER'S sole cost and expense. The Premises shall be maintained in a sanitary, orderly, attractive and safe condition. CONCESSIONER shall coordinate all door and gate locks or combination codes with the COUNTY Park Ranger; keep the garbage area clean and all garbage containers closed to prevent birds and other animals from gaining access to the garbage; and clean all grease traps according to a schedule that has been approved by the Director.

The parties agree that this Agreement is intended to be at no cost to COUNTY and that COUNTY shall have no obligation to maintain the Premises nor any improvements or landscaping thereon. Notwithstanding, COUNTY reserves the right to enter the Premises at any time for emergency purposes or any other purpose related to the Property.

18. **ABANDONMENT**: If CONCESSIONER abandons the Premises, COUNTY may continue this Agreement in effect after CONCESSIONER'S abandonment and recover rent as it becomes due. If COUNTY chooses to terminate this Agreement, COUNTY may, but shall not be obligated to, remove the personal property of CONCESSIONER and store same, at

CONCESSIONER'S expense. Alternatively, COUNTY may dispose of said property and shall have no liability therefor.

19. **TAXES AND ASSESSMENTS:** This Agreement may confer A POSSESSORY INTEREST on CONCESSIONER and CONCESSIONER shall pay and discharge any and all property taxes and/or assessments, including special assessments and possessory interest taxes, if any, which, due to CONCESSIONER'S operations may be levied upon the Premises during the term of this Agreement.

20. **REIMBURSEMENT OF FEES:** In no event shall COUNTY be responsible for reimbursement of any fees paid by CONCESSIONER'S patrons, invitees or guests.

21. **INDEMNIFICATION:** CONCESSIONER shall defend, indemnify and save harmless the COUNTY, its officers, agents, employees and volunteers from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of the work described herein, caused in whole or in part by any alleged negligent or intentional act, or error or omission of the CONCESSIONER, his tenants, licensees, invitees, or his agents, employees or other independent contractors directly responsible to him for whose acts any of them may be liable, except where caused by the active, sole negligence, or willful misconduct of the COUNTY.

CONCESSIONER shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

22. **INSURANCE:** Without limiting CONCESSIONER'S indemnification of the COUNTY, CONCESSIONER shall procure the following required insurance coverages at its sole cost and expense. All insurance coverages are to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place CONCESSIONER in default. Upon request by the COUNTY, CONCESSIONER shall provide a certified copy of any insurance policy to the COUNTY within ten (10) working days.

1. **Workers' Compensation Insurance:** Statutory Workers' Compensation and Employers' Liability Insurance shall cover all CONCESSIONER'S staff while performing any work incidental to the performance of this Agreement. The policy shall provide that no cancellation, or expiration or reduction of coverage shall be effective or occur until at least thirty (30) days after receipt of such notice by the COUNTY. In the event CONCESSIONER is self-insured, it shall furnish a copy of Certificate of Consent to Self-Insure issued by the Department of Industrial Relations for the State of California. This provision does not apply if CONCESSIONER has no employees as defined in Labor Code Section 3350 et seq. during the entire period of this Agreement and CONCESSIONER submits a written statement to the COUNTY stating that fact.

2. **General and Automobile Liability Insurance:** The general liability insurance shall include liquor liability coverage, as well as bodily injury, property damage and personal injury liability coverage; shall afford coverage for all premises, operations, products and completed operations of CONCESSIONER; and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed herein by CONCESSIONER, including, but not limited to Section 21, INDEMNIFICATION, hereof. The automobile liability insurance shall cover

all owned, non-owned and hired motor vehicles that are operated on behalf of CONCESSIONER pursuant to CONCESSIONER'S activities hereunder. CONCESSIONER shall require all subcontractors to be included under its policies or furnish separate certificates and endorsements to meet the standards of these provisions by each subcontractor. COUNTY, its officers, agents, and employees shall be Additional Insured status on any policy. A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each shall be included in the policies. A copy of the endorsement evidencing that the policy has been changed to reflect the Additional Insured status must be attached to the certificate of insurance. The limit of liability of said policy or policies for general and automobile liability insurance shall not be less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Any deductible or Self-Insured Retention {SIR} over \$10,000 requires approval by the COUNTY.

Said policy or policies shall include a severability of interest or cross liability clause or equivalent wording. Said policy or policies shall contain a provision of the following form:

"Such insurance as is afforded by this policy shall be primary and if the COUNTY has other valid and collectible insurance, that other insurance shall be excess and non-contributory."

If the policy providing liability coverage is on a 'claims-made' form, CONCESSIONER is required to maintain such coverage for a minimum of three years following completion of the performance or attempted performance of the provisions of this Agreement. Said policy or policies shall provide that the COUNTY shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage.

3. Property Insurance. The Property Insurance shall provide all risk property coverage on a replacement cost basis for the Property. COUNTY shall be included as a loss payee on any Property Insurance policy. Said Property Insurance shall contain an agreement under which the insurance company or companies supplying said policy shall notify COUNTY in writing at least thirty (30) days prior to cancellation of all or any part of such policy.

In the event of any loss to any property that is subject to this Agreement which is caused by any occurrence that is covered by such all risk property insurance, CONCESSIONER shall be responsible for any payment of any deductible. All property insurance carried by CONCESSIONER shall include provisions denying to the insurer, acquisition by subrogation of rights of recovery against the other party to the extent the rights have been waived by the insured prior to occurrence of loss or injury.

The above insurance requirements are subject to periodic review by the COUNTY. The COUNTY'S Risk Program Administrator is authorized to change the above insurance requirements, with the concurrence of County Counsel, to include additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against the COUNTY or inflation. This option may be exercised during any amendment of this Agreement that results in an increase in the nature of COUNTY'S risk and such change of provisions will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits must be made by written amendment to this Agreement. CONCESSIONER agrees to execute any such amendment within thirty (30) days of acceptance of the amendment or modification.

23. **NONDISCRIMINATION:** CONCESSIONER shall comply with COUNTY laws, rules and regulations regarding nondiscrimination as such are found in the Santa Barbara Code and

as such may from time to time be amended. These provisions are incorporated herein as if they were fully set forth.

Noncompliance with provisions of this section shall constitute a material breach of this Agreement and in addition to any other remedies provided by law, COUNTY shall have the right to terminate this Agreement and the interest hereby created without liability therefore.

24. **ENVIRONMENTAL IMPAIRMENT:** CONCESSIONER shall comply with all applicable laws, regulations, rules, and orders regardless of when they become or became effective, including without limitation those relating to construction, grading, signing, health, safety, noise, environmental protection, waste disposal, water and air quality, and shall furnish satisfactory evidence of compliance upon request of COUNTY.

Should any discharge, leakage, spillage, emission, or pollution of any type occur upon the property due to CONCESSIONER'S use and occupancy, CONCESSIONER shall clean all property affected to the satisfaction of COUNTY and any governmental body having jurisdiction thereover. CONCESSIONER shall indemnify, hold harmless, and defend COUNTY from and against all liability, claim, cost, and expense (including without limitation any fines, penalties, judgments, litigation costs, attorney's fees, and consulting engineering and construction costs) incurred by COUNTY as a result of CONCESSIONER'S breach of this section, or as a result of any such discharge, leakage, spillage, emission or pollution due to CONCESSIONER'S use and occupancy, regardless of whether such liability, cost or expense arises during or after the term of this Agreement, and regardless of negligence, active or passive, of COUNTY.

25. **TOXICS:** CONCESSIONER shall not manufacture or generate hazardous wastes on or in the leased area unless specifically authorized by this Agreement. CONCESSIONER shall be fully responsible for any hazardous wastes, substances or materials as defined under federal, state or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored, or transported by CONCESSIONER, its agents, employees, or designees on the leased area during the term of this Agreement and shall comply with and be bound by all applicable provisions of such federal, state, or local law, regulation, or ordinance dealing with such wastes, substances, or materials. CONCESSIONER shall notify COUNTY and the appropriate governmental emergency response agency(ies) immediately in the event of any release or threatened release of any such wastes, substances or materials.

COUNTY shall not manufacture or generate, nor allow others under its control to manufacture or generate hazardous wastes on the property. COUNTY shall notify CONCESSIONER immediately in the event of any release or threatened release of any such wastes, substances or materials. In the event that such wastes, substances, or materials are released upon the property by COUNTY or others under its control, CONCESSIONER may terminate this Agreement. Upon termination of this Agreement by CONCESSIONER, all rights of CONCESSIONER shall cease and CONCESSIONER shall quietly and peacefully deliver to COUNTY, possession and interest in the property.

26. **COMPLIANCE WITH THE LAW:** CONCESSIONER and CONCESSIONER'S tenants, licensees, invitees or guests shall comply with all local, County, State, and Federal laws, rules, and regulations affecting the property, now or hereafter in effect. In particular, CONCESSIONER'S occupancy shall at all times be subject to County Park rules, regulations, and restrictions per Santa Barbara County Code, Chapter 26. CONCESSIONER shall

provide each such tenant, licensee, invitee or guest with a copy of the County Park Rules including any subsequent amendments thereto.

27. **ANNUAL REPORT:** On January 1 of each and every year, CONCESSIONER shall provide COUNTY with an annual report describing CONCESSIONER'S current officers and general operations on the Property.

28. **NOTICES:** Any notice to be given to the parties, by another, shall be in writing and shall be served, either personally or by mail to the following:

COUNTY: Santa Barbara County Parks Department
610 Mission Canyon Rd.
Santa Barbara, CA 93105
(805) 568-2461

CONCESSIONER: Jalama Beach Store, Inc.
9991 Jalama Road
Lompoc, CA 93436
(805) 736-5027

or to the parties at such other place as may be designated in writing. Such notices shall be served by depositing them addressed as set out above, postage prepaid, in the U.S. mail or by personal delivery. The date of mailing, or in the event of personal delivery, the date of delivery shall constitute the date of service.

29. **DEFAULT:** Except as otherwise required herein, should CONCESSIONER at any time be in material default hereunder with respect to any covenant contained herein, COUNTY shall give notice to CONCESSIONER specifying the particulars of the default and CONCESSIONER shall promptly commence remedial action to cure the default. Should such default continue uncured for a period of thirty (30) calendar days from such notice, then the rights of CONCESSIONER granted in this Agreement shall terminate at the option of the COUNTY unless the cure of such default shall reasonably take more than thirty (30) calendar days in which case CONCESSIONER shall proceed with all due speed to cure the default and shall have a reasonable time to effectuate its cure.

30. **BREACH:** In the event CONCESSIONER violates any of the provisions herein and fails to remedy such violation within thirty (30) days after written notice thereof, in addition to any other rights COUNTY may be entitled to at law, COUNTY may terminate this Agreement and all rights of CONCESSIONER hereunder and remove CONCESSIONER from the Premises.

31. **WAIVER:** It is understood and agreed that any waiver, express or implied of any term of this Agreement shall not be, nor construed to be a waiver of any subsequent breach of a like kind or of any other provision of this Agreement.

32. **ACCEPTANCE OF THE PREMISES:** CONCESSIONER has examined the Premises and has determined that the Property and available roads are suitable for the needs and operations of CONCESSIONER.

33. **TERMINATION:** This Agreement shall terminate and all rights of CONCESSIONER shall cease and CONCESSIONER shall quietly and peacefully deliver to COUNTY, possession and interest in the Premises:

a) Upon expiration or earlier termination of this Agreement as provided in Section 4, TERM; or

b) Upon abandonment of the Property as provided in Section 18, ABANDONMENT, and COUNTY'S option to terminate this Agreement; or

c) As provided in Section 34, DESTRUCTION; or

d) In the event CONCESSIONER is found to be in non-compliance with any permits associated with this Agreement and such non-compliance is not resolved in a timely fashion; or

e) Upon the failure of CONCESSIONER to satisfy, observe or perform any of the covenants, conditions or reservations set forth in this Agreement and COUNTY'S exercise of its right to terminate.

34. **DESTRUCTION:** If the Premises are partially or totally destroyed by fire or other casualty, this Agreement, at the option of COUNTY shall terminate.

35. **REMOVAL OF PROPERTY UPON TERMINATION:** Upon termination of this Agreement, CONCESSIONER shall vacate and return possession of the Premises to COUNTY. COUNTY may require CONCESSIONER to remove any and all CONCESSIONER constructed improvements, alterations and equipment. However, any improvements to the Premises that have been approved by COUNTY pursuant to Section 9 hereof, including utilities, shall remain property of the COUNTY. Any removal of property by CONCESSIONER shall be completed within sixty (60) days of written request by COUNTY and shall be done at CONCESSIONER'S sole cost and expense. CONCESSIONER shall restore the Property and Premises as nearly as possible to its original condition. Alternatively, COUNTY and CONCESSIONER may negotiate for COUNTY'S purchase of any or all of CONCESSIONER'S personal property upon such terms as are deemed reasonable.

36. **AGENCY DISCLOSURE:** CONCESSIONER acknowledges that the General Services Department, Facilities Services Division, of the COUNTY is the agent for the COUNTY exclusively, and is neither the agent for CONCESSIONER nor a dual agent in this transaction.

37. **AMENDMENTS:** This Agreement may only be amended by written consent of the parties and such changes shall be binding upon the heirs or successors of the parties. Notwithstanding, the Director of the COUNTY'S Parks Department shall have authority to amend this Agreement on behalf of COUNTY so long as such amendments do not materially alter the purpose of this Agreement, as such is described in Section 3, **PURPOSE AND USE**, hereof.

38. **CAPTIONS:** The title or headings to the sections of this Agreement are not a part of this Agreement, and shall have no effect upon the construction or interpretation of any part hereof.

39. **SEVERABILITY:** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

40. **CERTIFICATION OF SIGNATORY:** The signatories of this Agreement and each of them represent and warrant that they are authorized to execute this Agreement and that no additional signatures are required to bind COUNTY and CONCESSIONER to its terms and conditions or to carry out duties contemplated herein.

41. **ENTIRE AGREEMENT:** The parties to this Agreement intend that their negotiations, conversations and statements made prior to execution of this Agreement are fully integrated and expressed herein, and no such negotiations, conversations, and statements shall be deemed to create rights or obligations other than those stated herein.

42. **CONSTRUCTION:** The parties to this Agreement agree that each party and its respective counsel have reviewed and approved this Agreement to the extent that each party in its sole discretion has desired, and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement. The terms and conditions of this Agreement embody the parties' mutual intent, and this Agreement shall not be construed more liberally in favor of, nor more strictly against any party hereto.

43. **FACSIMILE SIGNATURES:** In the event that the parties hereto utilize facsimile transmitted documents which include signatures, such documents shall be accepted as if they bore original signatures provided that documents bearing original signatures are provided within seventy-two (72) hours of transmission of the facsimile, except that funds shall not be released upon a facsimile signature nor shall facsimile signed documents be accepted for recordation by the Clerk Recorder of the County.

44. **EXECUTION IN COUNTERPARTS:** This Agreement may be executed in any number of counterparts and each such counterpart shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

45. **SUCCESSORS IN INTEREST:** This Agreement and the covenants contained herein shall be binding upon and inure to the benefit of the respective parties and to any organization into which CONCESSIONER may be merged.

Project: Jalama Beach Concession
APN: 083-510-001
Folio No.: 003534
Agent: DG

IN WITNESS WHEREOF, COUNTY and CONCESSIONER have signed this Concession Agreement by the respective authorized officers as set forth below to be effective on the date executed by COUNTY.

“COUNTY”
COUNTY OF SANTA BARBARA

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By: _____
Chair, Board of Supervisors

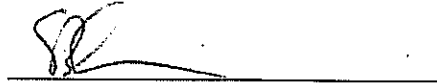
By: _____

Date: _____

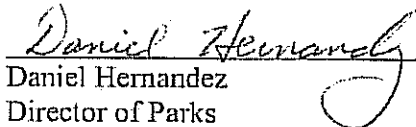
JALAMA BEACH STORE, INC.

JALAMA BEACH STORE, INC.

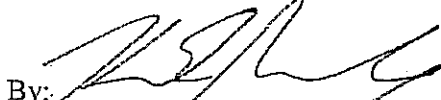

Kathleen Ann Eittreim, President


Steven B. Eittreim, Secretary/Treasurer

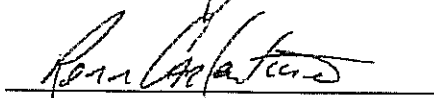
APPROVED:


Daniel Hernandez
Director of Parks

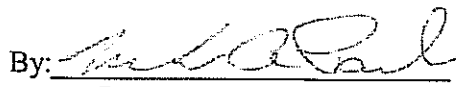
APPROVED AS TO FORM:
STEPHEN SHANE STARK
COUNTY COUNSEL

By: 
Deputy


APPROVED:


Royln Carlentine, SR/WA
Real Property Manager

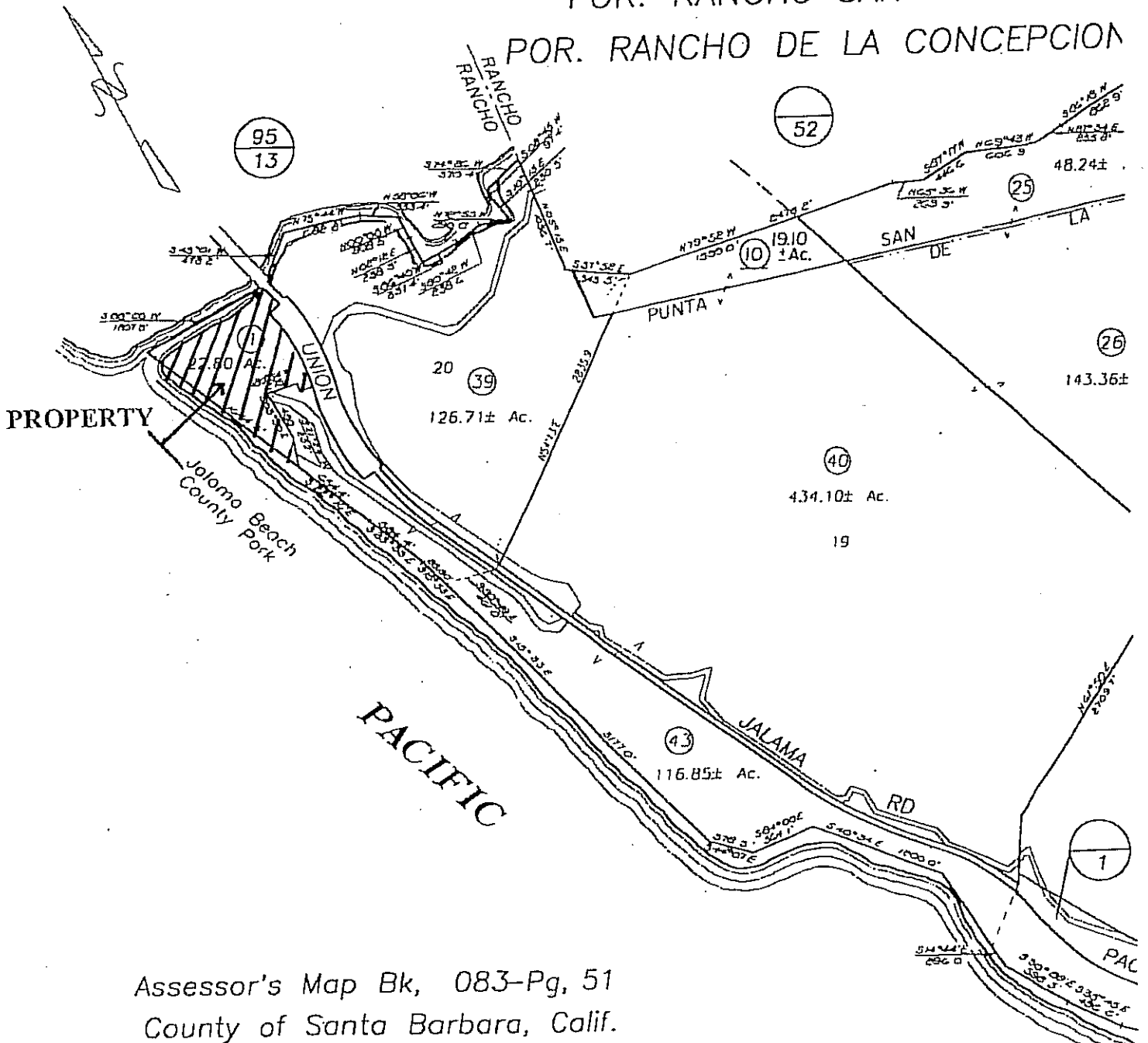
APPROVED AS TO FORM:
ROBERT GEIS, C.P.A.
AUDITOR-CONTROLLER

By: 
Deputy

APPROVED:


Ray Aromatorjo, ARM, AIC
Risk Program Administrator

POR. RANCHO SAN JULIAN
POR. RANCHO DE LA CONCEPCION



Assessor's Map Bk, 083-Pg, 51
County of Santa Barbara, Calif.

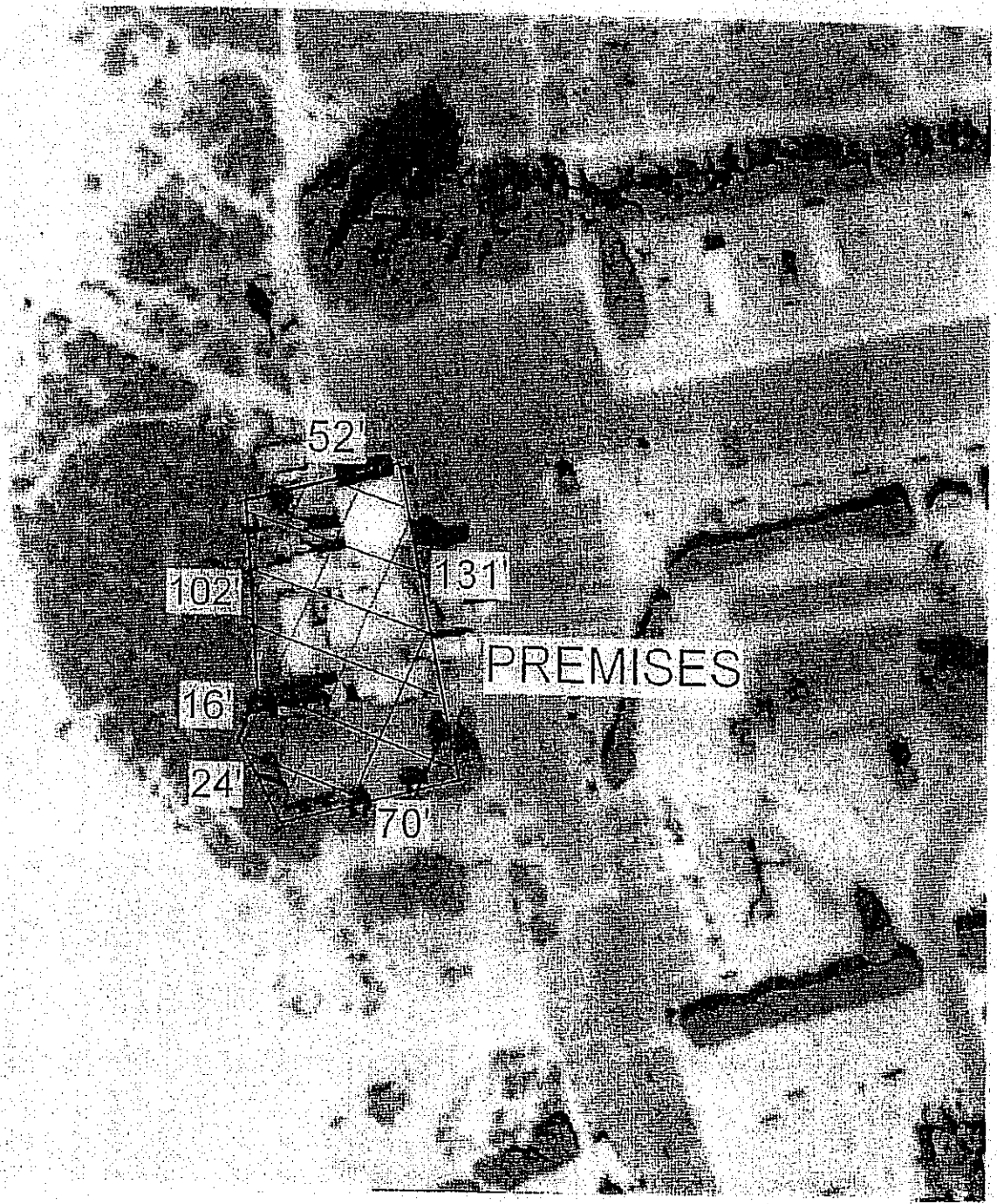
LD/03 4,7,9,13,15-23 INTO 24-26 & 39-44

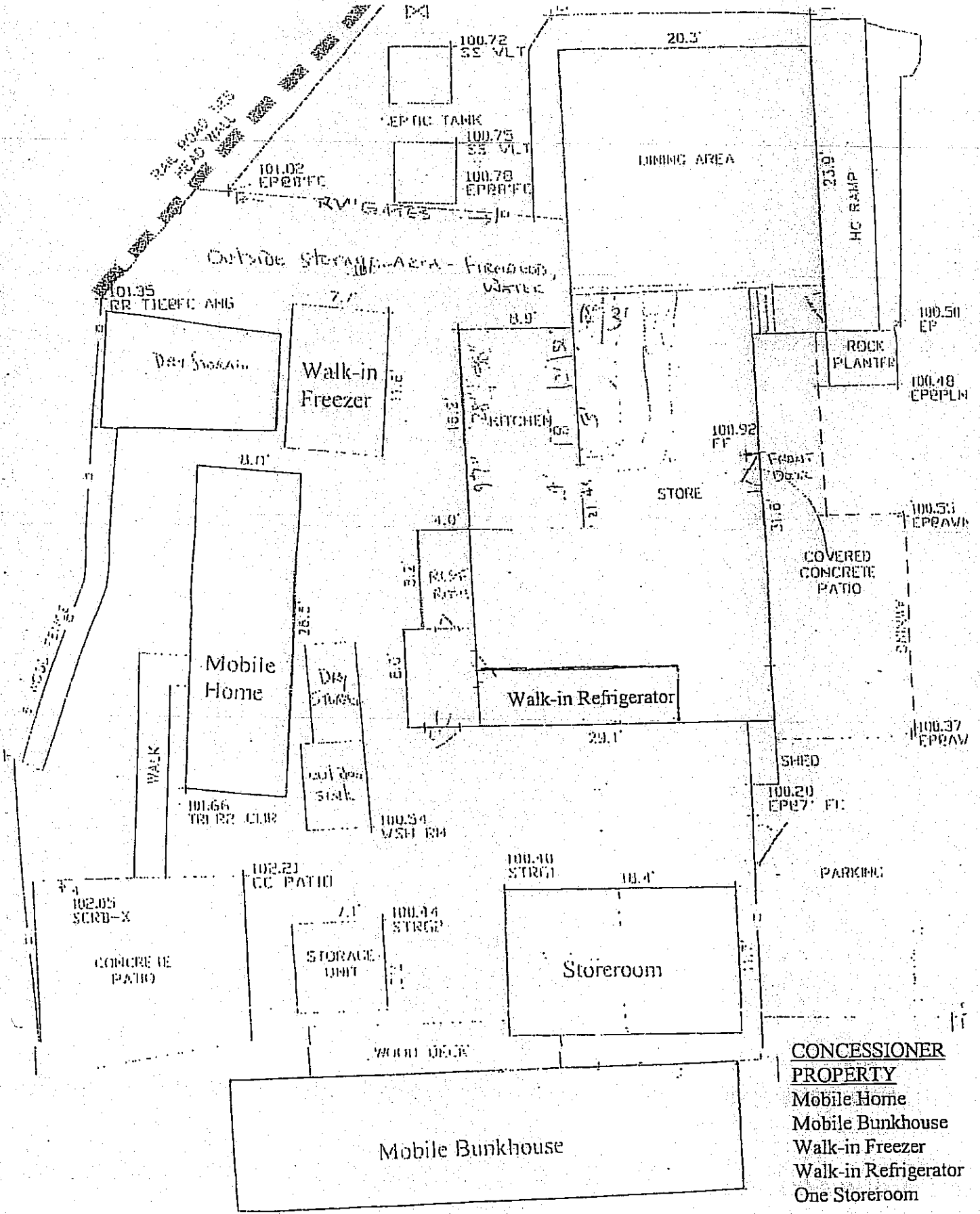
NOTE--RECORD TITLE ALONG SHORE OF
PACIFIC OCEAN SHALL BE CONSTRUED
TO REACH MEAN HIGH WATER.
BOARD OF SUPERVISORS MINUTES 9/2/30

NOTICE
Assessor Parcels are for tax assessment
purposes only and do not indicate either
parcel legality or a valid building site.

OCEAN

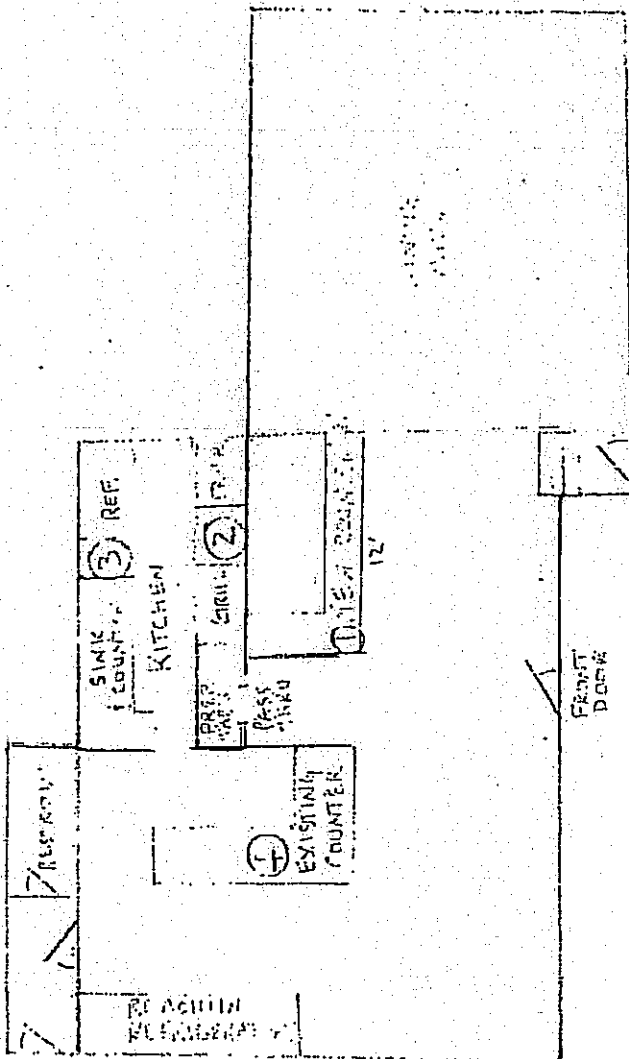
JALAMA BEACH COUNTY PARK
JALAMA BEACH STORE
"Premises"





- CONCESSIONER
PROPERTY**
- Mobile Home
 - Mobile Bunkhouse
 - Walk-in Freezer
 - Walk-in Refrigerator
 - One Storeroom

JALANA BREAD STORE



PROPOSED CHANGES

- ① NEW COUNTER
- ② NEW CHAIR-STOOLS
- ③ NEW REACH IN KITCHEN
- ④ EXISTING COUNTERS TO BE REMOVED

REDUCE OVER COUNTER AREA